

**MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:****March 2010**

**CONSIDERATION OF AN ORDER OF RULEMAKING TO AMEND 5 CSR 70-742.141,  
MISSOURI STATE PLAN FOR PART C OF THE INDIVIDUALS WITH DISABILITIES  
EDUCATION ACT (IDEA)**

<b>STATUTORY AUTHORITY:</b>  Section 160.900-160.925, RSMo Section 161.092, RSMo	<input type="checkbox"/> Consent Item <input checked="" type="checkbox"/> Action Item <input type="checkbox"/> Report Item
---	--

**COMMISSIONER'S GOAL NO. 1:**

Missouri students will rank in the top 10 as measured by the National Assessment of Educational Progress (NAEP) and other national and international measures of accountability.

**SUMMARY:**

First Steps is Missouri's early intervention program implementing Part C of the Individuals with Disabilities Education Act (IDEA). This program serves children between birth and age three who have either a diagnosed condition known to contribute to developmental delay or who have been identified with an existing half-age developmental delay.

The Department of Elementary and Secondary Education functions as the lead administrative agency for the program. The program has been in place since 1994 and currently serves approximately 4,200 children and families through Individualized Family Service Plans (IFSP) each month.

The purpose of the program is to build the family's capacity to manage the needs of the family related to enhancing their child's development, as well as, meeting the developmental needs of their infant/toddler with disabilities. All services are determined by a multi-disciplinary team and outlined in the child's IFSP.

Services are provided regionally through ten (10) System Points of Entry (SPOE) and approximately 2,600 early intervention providers. Funding for the program comes from four primary sources: (1) federal IDEA entitlement, (2) state appropriation, (3) public and private insurance, and (4) family fees, referred to as Family Cost Participation (FCP).

States are required to have regulations implementing Part C of IDEA approved by the Office of Special Education Programs (OSEP) at the U. S. Department of Education. In March 2009, OSEP directed Missouri to amend the state's regulations in order to clarify the following:

1. That parental consent is not required for the lead agency to notify the LEA where the child resides and that such notification will occur in the absence of an objection by the parent;
2. The notification to the LEA includes the following "child find information:" the child's name, birth date, and parent contact information (including parents' name(s), address(es), and telephone number(s));
3. The amount of time parents are provided to opt out;

4. How parents may opt out (i.e., orally or in writing); and,
5. When parents are informed of the opportunity to opt out of LEA notification (how the lead agency will inform parents of LEA notification and the state's opt-out policy, including any written materials or notice information; the content of this notice/information must include a description of all the foregoing elements).

The proposed revisions required by OSEP are in Section F (Transition to Preschool Programs) of the State Plan.

Additional corrections/revisions were made to the state plan to correct typographical errors, make minor wording changes, and to update personnel standards based on implementation of the Early Intervention Teaming (EIT) model in the Missouri First Steps System.

On January 8 and 26, 2010, the Department conducted two public hearings regarding the proposed changes to the Missouri State Plan. These public hearings were held in Jefferson City and St. Louis. The proposed state regulations were posted at <http://dese.mo.gov/divspeced/stateplan/index.html> for public review and comment on December 1, 2009.

Most of the proposed changes received either minimal or no comments. For the proposed changes receiving no comments, the Department recommends the changes be implemented as proposed. A summary of the comments and corresponding recommendations by the Department is provided in the accompanying chart. Changes made were primarily in the areas of Transition to Preschool Programs and Personnel Standards.

A complete copy of the final proposed Part C State Plan is available upon request and will be available at the State Board meeting.

**PRESENTER(S):**

Jackie Bruner, Director of Compliance, will assist with the presentation and discussion of this agenda item.

**RECOMMENDATION:**

The Commissioner recommends the State Board of Education authorize publication of an order of rulemaking to amend 5 CSR 70-742.141, the Missouri State Plan for Part C of the Individuals with Disabilities Education Act in the *Missouri Register* and that the State Board finds this amendment necessary to carry out the purpose of Sections 160.900-160.925 and 161.092 RSMo.

**Proposed changes to the  
State Regulations Implementing Part C of the Individuals with Disabilities Education Act (IDEA)  
Summary of Comments and Responses from the Department (DESE)**

**February 2010**

Section	Page	DESE Proposed Change	Reason for Proposed Change	Summary of Comments	DESE Response
Cover	1	Replace Cover	Clarification	None	Changes: None
A	6	Definitions - Add Family Child Care Assistance and definition as an early intervention service (EIS)	Previously omitted from 2006 State Plan	None	Changes: None
F	15	Added three (3) new paragraphs describing "opt out"	OSEP Requirement	None	Changes: None
F	15	Change transition meeting timelines from "six months" to "four months (or 120 days)" prior to the child's third birth date.	Align Part C transition and Part B referral timelines	Commenters had concerns about how this change would affect processing First Steps children with summer birthdays and said other school districts have the same concerns. They are concerned ECSE will not have enough time to evaluate and have an IEP in place by the child's 3rd birthday.	DESE agrees and will change back to the former language: "Six months prior to the child's third birth date..."
VIII	29	Personnel Standards - ABA Implementer	Alignment with early intervention teaming (EIT) model	Commenters stated that having an ABA Implementer supervised by a Behavioral Specialist rather than by an ABA Program Consultant was confusing.	DESE agrees and will change back to the former language: "Must have ongoing supervision and training by an ABA program consultant"
VIII	29	Personnel Standards - Change Title of "ABA Program Consultants" to "Behavioral Specialist."	Alignment with early intervention teaming (EIT) model	Commenters disagreed with the deletion of ABA from the title and believed parents of children with autism would be alarmed by the proposed change.	DESE agrees and will change back to the former language in the Title: "ABA Program Consultants."
		Changed (added or deleted) responsibilities of ABA Program Consultant.	Alignment with early intervention teaming (EIT) model	One commenter wondered if this change would weaken or change the current classification of ABA Program Consultant. Another commenter stated that ABA is a methodology and a behavior specialist is not.	None
		Changed educational qualifications of ABA Program Consultant from "Bachelor's or Master's	Alignment with early intervention teaming (EIT) model	A commenter asked why a bachelor's or master's degree wasn't listed in educational qualifications. Another commenter wanted a definition of	DESE agrees and will change back to the former language in Educational Qualifications: "Bachelor's or Master's degree in human services field."

Section	Page	DESE Proposed Change	Reason for Proposed Change	Summary of Comments	DESE Response
		degree in human services field" to "Degree equivalent to a Special Instructor, Physical Therapist, Occupational Therapist, or Speech Language Pathologist.		"degree equivalent."	
VIII	30	Personnel Standards – Changed (added or deleted) responsibilities of <b>Counselor, Licensed Professional.</b>	Alignment with early intervention teaming (EIT) model	None	Changes: None
VIII	30	Personnel Standards – Changed (deleted/added) responsibilities of Dietitian.	Alignment with early intervention teaming (EIT) model	None	Changes: None
VIII	30	Deleted Intake or Service Coordinator Associate from Personnel Standards.	N/A	None	Changes: None
VIII	31	Personnel Standards – Changed (added/deleted) responsibilities of <b>Occupational Therapist.</b>	Alignment with early intervention teaming (EIT) model	None	Changes: None
VIII	31	Added educational qualifications: "Bachelor's Degree (prior to 2007) and "Master's Degree (effective 2007) to Occupational Therapist.	Requirement of MO Healing Board of Arts	None	Changes: None
VIII	31	Personnel Standards – <b>Optometrist</b> Added to responsibilities.	Previously omitted from State Plan	None	Changes: None
VIII	31	Personnel Standards – Added examples of <b>Other Early Intervention Provider</b> (e.g., Assistive Technology provider, Translator, Transportation provider)	Clarification	None	Changes: None
VIII	32	Changed (added/deleted) responsibilities of <b>Physical Therapist</b> and clarified effective dates of educational qualification.	Alignment with early intervention teaming (EIT) model	None	Changes: None

Section	Page	DESE Proposed Change	Reason for Proposed Change	Summary of Comments	DESE Response
VIII	32	Changed (added/deleted) responsibilities of <b>Psychologists.</b>	Clarification	None	Changes: None
VII	32	Personnel Standards - Deleted "Intake or" from <b>Service Coordinator</b>	Differentiation unnecessary	None	Changes: None
		Changed educational qualifications of Service Coordinator	Alignment with early intervention teaming (EIT) model	One commenter suggested that a degree in Counseling with the appropriate experience should be added to the educational qualifications section.	DESE agrees that a Counseling degree with appropriate experience should be added to the educational qualifications for a Service Coordinator and will revise the Educational Qualifications to include <b>Counseling.</b>
VIII	33	Personnel Standards - <b>Social Worker</b> Changed (deleted/added) responsibilities	Clarification	None	Changes: None
VIII	33	Personnel Standards - <b>Speech Language Pathologist</b> Changed (added/deleted) responsibilities.	Alignment with early intervention teaming (EIT) model	None	Changes: None
VIII	33	Personnel Standards - <b>Speech Language Pathology Associate</b> Changed (added/deleted) responsibilities.	Clarification	One commenter suggested adding Temporary license issued by the Board of Healing Arts while working toward the completion requirements for Certificate of Clinical Competency to the Certificates or License Column.	DESE declines to make this change since the Certificates/Licensure column already states: "Working towards Certificate of Clinical Competency for licensure by State Board of Registration for the Healing Arts." Changes: None
VIII	32	Personnel Standards - <b>Special Instructor</b> Changed (added/deleted) responsibilities; educational qualifications; and changed Certificates/Licenses	Alignment with early intervention teaming (EIT) model	One commenter requested adding autism to educational qualifications of a special instructor.	DESE declines to add autism to educational qualifications of Special Instructor. Changes: None
VIII	33	Personnel Standards - Added two (2) new Titles: <b>Special Instructor-Deaf/Hearing Impaired</b> and <b>Special Instructor-Blind/Partially Sighted</b> with responsibilities Policies and Procedures Related to Financial	Clarification	One commenter stated that to be consistent with the educational qualifications of other Special Instructor, "or Master's degree" should be added.	DESE declines to change the educational qualifications from "Bachelor's Degree" because a BA is the only degree that is needed for an individual to be enrolled in First Steps if they have the proper certification in Deaf/Hearing Impaired or Blind/Partially Sighted. Changes: None
XII	49		Clarification	None	Changes: None

<u>Section</u>	<u>Page</u>	<u>DESE Proposed Change</u>	<u>Reason for Proposed Change</u>	<u>Summary of Comments</u>	<u>DESE Response</u>
		Matters - deleted Family Cost Participation (FCP) Charts and added website where they can be accessed.			
Appendix	56	Deleted "Appendix B Notice of Availability of Applications and Public Hearings"	No Longer Necessary	None	Changes: None
		<b>Entire Document</b> Throughout the document, minor wording and editing changes have been made for clarification.	Clarification	None	Changes: None